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ABSTRACT

The objective of Part II of the Colorado Legislative Council's Committee on American Indian Enrollment Problems report is to recommend policies and procedures for dealing with American Indian tuitions and Indian education at Fort Lewis College. The committee members worked with the Colorado congressional delegation and representatives of the U.S. Departments of Interior and Health, Education, and Welfare in an effort to assure adequate funding for the Indian education program and financial assistance for individual Indian students attending Fort Lewis College. Topics discussed include House Bill 1452; the Long Appropriation Bill, Senate Bill 436 (1971); the Joint Budget Committee's 1971 Appropriation Report; Indian enrollment and financial aids during the 1971 fall registration; and the use of the Hesperus Property and the Hesperus Account. Recommendations by the committee cover the following areas: continuation of Indian education, House Bill 1452, tuition grants for Indian students, Federal funding, use of the property at Hesperus, Indian membership on the Experiment Station Advisory Committee, and use of the Hesperus account. Also included are 2 appendixes showing House Joint Resolution 1029 and a chapter of House Bill 1452, "Schools II--State Universities, Colleges, and Academies." In a third appendix, the policy, in accordance with House Bill 1452, governing Indian enrollment and tuition waivers at Fort Lewis College is shown. (FF)

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Report to the Colorado General Assembly

FORT LEWIS COLLEGE
INDIAN TUITION GRANTS

Part II

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 178

December, 1971

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* * * * * * * * * * *

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

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Research Publication No. 178
December, 1971

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REP. CLARENCE QUINLAN

To Members of the Forty-eighth Colorado General Assembly:

In accordance with the provisions of House Joint Resolution No. 1029, 1971 Session, the Legislative Council submits the accompanying report and recommendations pertaining to Indian enrollments and tuition grants at Fort Lewis College.

The report of the Committee appointed to carry out this study has not yet been reviewed by the Legislative Council because of extended Committee activity. The Council, however, at its meeting on November 29, 1971 agreed to accept the report for transmission to the Governor and the members of the Forty-eighth General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/mp

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December 20, 1971

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

Your committee appointed to continue the study of Indian enrollment problems at Fort Lewis College submits the accompanying report and recommendations.

Although some of the recommendations have budgetary implications for the 1972 Session of the General Assembly, the Committee is not recommending any substantive statutory changes for inclusion on the Governor's agenda.

Respectfully submitted,

/s/ Representative Ted Bryant
Chairman
Committee on Indian Enrollment Problems

TB/mp

FOREWORD

House Joint Resolution No. 1029, 1971 Regular Session, directed the Legislative Council to appoint a committee to continue the study of Indian enrollments and tuition waivers at Fort Lewis College. The membership of the committee appointed to carry out this assignment was:

Representative Ted Bryant, Chairman
Senator Dan Noble, Vice Chairman
Senator Al Ruland
Representative Clarence Quinlan
Representative Roy Wells

The Committee wishes to express its appreciation to the members of the Colorado congressional delegation, and particularly to Senator Gordon Allott and his staff, for their interest and assistance in Committee efforts to obtain federal aid for non-resident Indian students at Fort Lewis College.

The Committee also owes a special debt of gratitude to Mr. Harrison Loesch, Assistant Secretary, Department of the Interior, and Dr. James Hawkins, Director of Education, Bureau of Indian Affairs, for their cooperation and assistance.

In addition to those mentioned above, valuable assistance was given to the Committee by President Rexer Berndt of Fort Lewis College and members of his staff; Mr. Chuck Terrell, Secretary, and Mr. John Bush, Resident Counsel, State Board of Agriculture; Dr. Frank Abbott, Executive Director, and Mrs. Betty Miller, Assistant Director, Commission on Higher Education; and Mr. Ray Simpson, President, State Board of Land Commissioners.

Janet Wilson, principal analyst of the Council staff, had primary responsibility for staff services and preparation of the final report, assisted by Joyce Emerson, research assistant.

December 20, 1971

Lyle C. Kyle
Director

TABLE OF CONTENTS

	Page
LETTERS OF TRANSMITTAL	iii
FOREWORD	vii
TABLE OF CONTENTS	ix
COMMITTEE RECOMMENDATIONS	xi
Continuation of Indian Education Program	xi
House Bill No. 1452	xi
Tuition Grants for Indian Students	xi
Residents	xi
Continuing Non-residents	xii
New Non-residents	xii
Federal Funding	xii
Use of the Property at Hesperus	xii
Indian Membership on Experiment Station Advisory Committee	xiii
Use of the Hesperus Account	xiii
FORT LEWIS COLLEGE INDIAN TUITION GRANTS, Part II	1
Introduction	1
House Bill No. 1452 (1971)	3
Legislative Action	3
Provisions and Rationale	3
124-14-1 -- Legislative declaration	3
124-14-2 -- College established	6
124-14-3 and 124-14-4 -- Governing Board	7
124-14-5 -- Tuition fees, Indians	8
124-14-6 -- Donations	10
124-11-15 through 124-11-17 -- Hesperus account and development of natural resources	11
Pending Litigation	14

Page

Tuition and Student Aid -- Long Appropriations Bill for 1971-72..... 15
College Operating Funds -- Fort Lewis..... 15
State Student Scholarships and Aid..... 15
Effect of New Student Aid Procedures at Fort Lewis College..... 16

Efforts to Obtain Non-State Funding..... 19
Exploratory Contacts with Federal Officials... 20
Department of the Interior, Bureau of Indian Affairs..... 21
Department of Health, Education and Welfare... 26
Western Interstate Commission For Higher Education..... 27

Fall Registration, 1971 -- Indian Enrollments and Financial Aid..... 28
College Procedures..... 28
Indian Students Enrolled..... 29
Ramifications for the Financial Aid Program... 30
Residents..... 30
Continuing Non-residents..... 30
Newly Entering Non-residents..... 31

The Hesperus Property and the Hesperus Account..... 32
The Hesperus Site -- Use and Income..... 32
Surface Leasing..... 32
Oil and Gas Leasing..... 33
Coal Leasing..... 33
Timber Sales..... 34
Future Income from Property..... 34
Committee Consideration of Income Potential... 34

The New Hesperus Account -- Anticipated Income..... 35
Income from Property..... 35
Income from Account..... 36

APPENDICES..... 37

Appendix A -- H.J.R. No. 1029..... 37

Appendix B -- House Bill No. 1452 (Chapter 309, Session Laws of Colorado 1971)..... 39

Appendic C -- Tuition Grant Subcommittee Responsibilities, Policies and Procedures..... 43

COMMITTEE RECOMMENDATIONS

The Committee on Indian Enrollment Problems recommends the following state policies and procedures for dealing with Indian tuitions and Indian education at Fort Lewis College over the next few years. None of the recommendations involve legislation for inclusion on the Governor's "call" for the 1972 session.

Continuation of Indian Education Program

The committee recommends the continuation and improvement of the Indian education program at Fort Lewis College and encourages that a sizable Indian student enrollment at the college be maintained. The committee strongly opposes any attempts to impose numerical or percentage limitations on Indian enrollments and insists that Indian students otherwise qualified and able to pay tuition never be refused admission on the basis of their Indian ancestry.

House Bill No. 1452

The committee makes no recommendations for changes in the provisions of House Bill 1452. There has not been sufficient experience under the law this year to determine what changes might be needed. By 1973, those who have been responsible for administration will be in a better position to know what amendments are required. By that time the court case attacking the law should have been resolved and the proposed change in governing boards for Fort Lewis College will also have been decided one way or the other.

Tuition Grants for Indian Students

The committee recommends the following policies regarding state-financed Indian tuition grants:

Residents: For Colorado resident Indians, whether newly entering or "continuing" students, the state has a legal obligation under House Bill 1452 to provide tuition waivers at the resident rate so long as the students are qualified and are not otherwise able to pay tuition. Thus the committee recommends full funding by the state for this group. (In November of the 1971-72 academic year there were 19 who qualified as Colorado residents, requiring a total tuition allocation of $5,244 for the fall and winter trimesters.)

Continuing non-residents: The committee recommends that the state honor its commitment to cover the tuition costs of all "continuing" non-resident students -- those who were enrolled and in good standing prior to July 1, 1971 -- computed (for purposes of the state allocation) at the resident tuition rate. This policy has been followed for 1971-72, involving 131 students and a total allocation of approximately $36,000 for the fall and winter trimesters. In future years the allocation will become smaller as students graduate and fewer "continuing" students remain on campus. The last year involving "continuing" students should be 1974-75; the amount required to honor the commitment beyond that time would be negligible.

New non-residents: The committee recommends that the cost of non-resident tuition for newly entering non-resident Indian students be considered the responsibility of the Bureau of Indian Affairs and that the state allocate no funds which would lead to state-financed tuition waivers for these students as a group. In the event a new non-resident student did not receive the anticipated non-resident tuition scholarship from the BIA, he could, of course, still compete (along with non-Indian applicants) for the limited state funds allocated for regular student aid.

The committee recognizes that this policy may at first result in fewer BIA scholarships for new non-residents, but is convinced that if a high quality program is maintained at Fort Lewis, BIA officials will see the value of authorizing the scholarships, even at non-resident tuition rates.

Federal Funding

The committee recommends that efforts to obtain non-state funding, especially federal funding, be continued by Fort Lewis College, the Commission on Higher Education, state budget officials, and others. Although the committee's efforts have stirred interest at the federal level, it will be necessary to follow through continuously until precedents are firmly established, in order to avoid losing what has been gained.

Use of the Property at Hesperus

The committee recommends that the San Juan Basin Branch Experiment Station remain on the 6,318 acres at the Hesperus site but asks that the State Board of Agriculture give serious consideration to voluntarily reinstating its payment of annual rentals for the use of the property. Even though the At-

torney General has ruled that there is no legal obligation to pay the rent, voluntary payments would add to the funds in the Hesperus account which are earmarked for Indian tuition waivers.

The committee also recommends the continued exercise of caution in the granting of future mineral leases on the Hesperus property.

Indian Membership on Experiment Station Advisory Committee

The committee recommends the expansion of the advisory committee for the San Juan Basin Branch Experiment Station to include representatives of the Southern Ute and Ute Mountain Ute Indians, plus at least one at-large Indian representative. This will permit and encourage Indian participation in the decision-making process regarding the use of the Hesperus property.

Use of the Hesperus Account

The committee recommends that the portion of the Hesperus account which represents past income from the Hesperus property (approximately $96,000) remain invested, with the income from the investments (some $5,700 per year) utilized for Indian tuition waivers each year.

The committee further recommends that the portion of the Hesperus account which represents income from the Hesperus property received after July 1, 1971 (the effective date of H.B. 1452) be considered for utilization on a current basis to help finance Indian tuition waivers.

The committee cautions that the amount expended from the Hesperus account for Indian tuition waivers should not be viewed as a ceiling on available funds for that purpose, and specifically asks that general fund moneys also be allocated, at least until the commitment for "continuing" students has been met.

FORT LEWIS COLLEGE
INDIAN TUITION GRANTS
Part II

Introduction

The Legislative Council Committee on Indian Enrollment Problems, which began its work late in 1970, was reconstituted by the Council pursuant to the provisions of H.J.R. No. 1029 (see Appendix A) to continue its work through 1971 and report to the 1972 Regular Session of the General Assembly.

Background information on the committee and its functions can be found in Legislative Council Research Publication No. 167, Indian Enrollments and Tuition Waivers at Fort Lewis College (March, 1971). The present document is labeled "Part II" because it does not attempt to duplicate any of the explanatory or historical material contained in the first report, but rather provides a description of what has occurred since March, 1971.

The composition of the committee was altered as follows: (1) Representative Ted Bryant replaced Representative Clarence Quinlan as Chairman; (2) Senator Dan Noble was designated as Vice Chairman; and (3) Senator Al Ruland of Durango replaced Senator Allen Dines as a member of the committee. Thus the membership of this year's committee includes:

Representative Ted Bryant, Denver - Chairman
Senator Dan Noble, Norwood - Vice Chairman
Senator Al Ruland, Durango
Representative Clarence Quinlan, Antonito
Representative Roy Wells, Cortez

The committee has held three meetings since the adjournment of the 1971 legislative session -- one in Denver in June, one in Durango in September, and a final meeting in Denver in December.

Meanwhile, individual committee members have been working with the Colorado congressional delegation, the U. S. Departments of Interior and HEW, and others in an effort to assure adequate funding for the Indian education program and financial assistance for individual Indian students attending Fort Lewis this fall. The committee has taken on these responsibilities not only because of the directives of H.J.R. 1029 but also because the members felt that such efforts on

behalf of the General Assembly would help demonstrate to the students, the college, the Indian community, and the general public what was intended at the time of enactment of House Bill No. 1452, the new Fort Lewis statute which went into effect on July 1.

The committee is pleased to report, in this regard, that to its knowledge not a single American Indian student, resident or non-resident, has been denied admission to Fort Lewis College this fall because of his race or because of inability to pay the cost of tuition. Further details are included later in the report.

The committee has tried to establish procedures and channels of communication which can be utilized fully and appropriately on a continuing basis by college administrators and the State Board of Agriculture, the Commission on Higher Education, state budget officials, and others who are responsible for providing quality Indian education and sufficient financial aid for Indian students at Fort Lewis. Under the present circumstances the committee sees no necessity for the continuation of a special legislative study committee for these purposes beyond the end of this year.

House Bill No. 1452 (1971)

Legislative Action

In its initial report, issued during the 1971 legislative session, the Committee on Indian Enrollment Problems recommended passage of a proposed revision of the Colorado statutes on Fort Lewis College. A bill, House Bill No. 1452, was introduced under the sponsorship of all five members of the committee.

Following committee hearings and extensive debate in both houses, House Bill 1452 was amended and passed, sent to the Governor, and signed into law on June 4, 1971. The effective date was July 1, 1971. The text appears in the Session Laws of Colorado 1971, Chapter 309, pages 1182-1184. (See Appendix B.)

Provisions and Rationale

The original statutes establishing the Fort Lewis School were enacted in 1911. Amendments were made from time to time, but the original statutory basis for the school remained virtually unchanged -- codified in the first two sections of Article 14, Chapter 124, Colorado Revised Statutes 1963, as amended -- until the passage of House Bill 1452.

With House Bill No. 1452, the General Assembly undertook to rewrite the entire statutory article relating to Fort Lewis. All of Article 14 was repealed and reenacted, with amendments, so that since July 1 the college has been operating under a completely new law.

A section-by-section analysis of the new Article 14 follows. (For purposes of this report, primary emphasis is given to those sections which relate most directly to the Indian education question.)

124-14-1 - Text:

> 124-14-1. Legislative declaration. The general assembly hereby finds, determines, and declares: That Fort Lewis college had its beginnings on land originally set aside by the federal government as an Indian school; that a sizeable Indian student population on the campus of Fort Lewis college is desirable; that the state will continue and improve the outstanding Indian education program now in existence at Fort Lewis college; that although this article is intended to establish the obligation of the state of Colorado in this regard, the state intends to pursue

all other possible sources of funding for program development and student aid for the Indian education program; and that the state further intends to assure continuity in the Fort Lewis college program for all qualified Indian students who were enrolled and in good standing prior to the effective date of this article.

Description: This is a new section in the Fort Lewis law. The previous Article 14 contained no legislative declaration. The declarations of intent contained in this section are extremely significant in terms of understanding the role of the committee and the context of the remainder of the bill. The declarations include:

(1) Acknowledgement of the historical ties between the present Fort Lewis College in Durango and the old Fort Lewis school located on the original federal land grant at Hesperus;

(2) Reaffirmation of the desirability of maintaining a sizable American Indian student population on the Fort Lewis campus;

(3) Commitment to continuation and improvement of the Indian education program at Fort Lewis College;

(4) Legislative intent to define the legal limits of Colorado's enforceable financial obligation in relation to the Indian program and its students, while sustaining efforts to establish additional means of support;

(5) Legislative intent to pursue all possible sources of non-state funding for program development and student aid in Indian education; and

(6) Legislative intent to assure continuity in the program for all qualified Indian students who were enrolled and in good standing prior to July 1, 1971.

Explanation: Opinions differ as to the legal effect of sections in statutes which purport to declare the legislature's intent at the time a bill was passed. It is frequently said that such sections carry considerable evidentiary weight in court actions on interpretations of substantive provisions. They are also a means by which the legislature can go on record, for public consumption and future reference, as to its general policy and intent in a particular problem area. Consequently legislative declarations are included in a number of bills each year, even though their absolute legal enforceability is questionable. In this case, the practical effect of the enumeration of the state's moral obligations and legisla-

tive intentions in relation to the Fort Lewis Indian tuition controversy should not be underestimated.

The history and background leading to the first statement in the declaration, regarding the origins of Fort Lewis as an Indian school, are contained in the committee's first report. Inclusion of this statement in the declaration serves as a reminder that the state of Colorado recognizes a moral obligation to continue the Indian educational opportunites that have been a part of the school's longstanding heritage.

The second and third legislative declarations, regarding the desirability of a sizable Indian student population and the continuation and improvement of the Indian education program at Fort Lewis, emphasize the state's interest in helping Indian students who seek a college education. These statements serve to refute the charges that the General Assembly desires to reduce or limit Indian enrollments at the college or cut down on the special Indian education program.

One of the purposes of House Bill 1452 was to clarify what are the limits on the enforceable financial obligation of the state of Colorado for payment of tuition costs for non-resident Indian students at Fort Lewis College. The fourth legislative declaration stems from the Attorney General's ruling of March, 1971, which established, among other things, that existing federally-imposed conditions on the Hesperus land grant in no way preclude state legislation limiting the granting of Indian tuition waivers for students attending college on the campus in Durango. What this declaration attempts to say is that -- despite changes in the statutes to establish outer boundaries on the state's potential financial obligation (by limiting the legal guarantee of free Indian tuition to needy Colorado residents only) -- the state will continue to do what it can to convince the federal government, other states, and private sources that they should share in the financial responsibility for the Fort Lewis Indian education program, particularly as to students who are not Colorado residents, so that the program will still be available to fill the needs of Indian students.

The fifth legislative declaration, coupled with the directives of H.J.R. 1029, has been the principal concern of the present committee this summer. Committee efforts to open up new sources of non-state funding have proved encouraging, but since administrative complications appear to be inherent in the quest for outside financial assistance for state institutions of higher learning, the committee recognizes that it must rely on others to help follow through in the months and years ahead.

In accordance with the sixth statement of legislative intent, arrangements have been made to guarantee tuition waivers for all "continuing" Indian students. No Fort Lewis Indian student who was in school prior to July 1, 1971 will be denied the opportunity to complete his college education at Fort Lewis because of inability to pay tuition costs. The committee, the college, and the Commission on Higher Education have agreed that state-allocated student aid funds will be utilized for this purpose. Waivers for all continuing students are to be computed at the resident rate.

The committee anticipates that the legislative declarations of Section 124-14-1 will serve as policy guidelines for future legislative decisions as well as for the state and federal officials who will have continuing responsibility for dealing with issues involving Indian education and tuition grants for Indians at Fort Lewis College.

124-14-2 - Text:

> 124-14-2. College established - objects. A college is hereby established to be known by the name and style of "Fort Lewis college", to be located at Durango, Colorado, to afford a curriculum in the sciences, arts, business, education, and vocational education.

Description: This section establishes (1) that there shall be a Fort Lewis College (not "School"); (2) that it shall be located at Durango (not Hesperus); and (3) that it shall have a curriculum in the sciences, arts, business, education, and vocational education.

Explanation: The above revision combines into a single sentence those parts of several sections in the old Fort Lewis statute which are still current and applicable.

Under previous sections the institution was known as the "Fort Lewis School," and although the name was officially changed in 1964 to "Fort Lewis College," both names had remained in the statutes until the passage of H.B. No. 1452. [Old 124-14-1 and 124-14-12.]

Early sections established the location of the school at Hesperus, on the property originally granted by the United States Congress to the State of Colorado. Later sections were added (without repealing the earlier ones) to establish the present site in Durango on property acquired in 1947 and occupied in 1956. The specific authorizations involving acquisition of the property and construction of the buildings in these early years on the Durango campus were not removed from the stature books until House Bill 1452. [Old 124-14-7 through 124-14-12.]

The previous description of the Fort Lewis curriculum was that of a typical agricultural college. Fort Lewis was to be a school of "agriculture, mechanic arts, and household arts." [Old 124-14-1.] The above revision more accurately describes the nature of the Fort Lewis curriculum now that it has developed into a four-year liberal arts college.

124-14-3 and 124-14-4 - Text:

124-14-3. Governing board - general power. The governing board of Fort Lewis college shall be the state board of agriculture which shall have general supervision of the college and plenary power to enact rules and regulations for the governing of the college.

124-14-4. Governing board - powers. (1) (a) In addition to those powers conferred elsewhere in this article, the state board of agriculture shall have the power to:

(b) Appoint a president of Fort Lewis college who shall hold his office until removed by the board, or until he shall resign the same;

(c) Appoint such other executive officers of the college as may be required;

(d) Appoint such faculty and employees as the necessities of the college demand; and

(e) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff.

Description: The State Board of Agriculture is to continue as the governing board of Fort Lewis College, with general supervisory powers, including enactment of rules and regulations and governance of personnel matters.

Explanation: This is a restatement of the governing authority for Fort Lewis College granted to the State Board of Agriculture under the previous statute. [See old 124-14-2.] A few clarifying provisions are added affirming the power of the Board to appoint and fix the compensation of the president, executive officers, faculty, and employees. None of these provisions appears to be a change from prevailing practice. (Discussions in other Legislative Council committees concerning possible recommended changes in the governing board for Fort Lewis were not brought into the deliberations of this committee at any time.)

Under House Bill 1452 there is no longer a specific statutory requirement for the Board to manage Fort Lewis under

the same laws, rules, and regulations as Colorado State University. Provisions for Board of Agriculture control and management of the land, buildings and equipment at the Hesperus site (now the San Juan Basin Branch Experiment Station) are also removed to Fort Lewis statute.1/ Thus the article devoted to Fort Lewis College (new Article 124-14) makes no reference to either C.S.U. or the San Juan experiment station at Hesperus; it deals only with the college as an independent institution of higher learning with its campus in Durango.

124-14-5 - Text:

124-14-5. Tuition fees - Indians. (1) The state board of agriculture shall fix tuition, in accordance with the level of appropriations set by the general assembly for the college, subject to the restriction that all qualified Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado, who qualify for in-state tuition under article 18 of this chapter, and who are not otherwise able to pay tuition, shall at all times be admitted to such school free of charge for tuition and on terms of equality with other pupils.

(2) Special programs may also be offered to assist Indian pupils to prepare for, begin, or continue their college education at Fort Lewis college. Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado, who qualify for in-state tuition under article 18 of this chapter, and who are not otherwise able to pay tuition, shall not be charged tuition for such programs. The size of any special programs offered pursuant to this subsection (2) shall be limited by the facilities and revenues available and by the level of appropriations set therefor by the general assembly. Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado shall have preference over all other pupils for admission to such programs.

Description: Subsection (1) of this section deals with tuition procedures for the regular college program. The State Board of Agriculture is responsible for setting tuition fees, in accordance with the level of appropriations set by the legislature. Tuition waivers must be granted to quali-

1/ Now that the Hesperus site is used as an experiment station, the State Board of Agriculture is guided in its management of the land and buildings by the C.S.U., Board of Agriculture, and Experiment Station statutes (Articles 124-10 through 124-13).

fied Indian students who are Colorado residents and not otherwise able to pay tuition.

Subsection (2) authorizes collegiate and pre-collegiate programs specially designed for Indian students at Fort Lewis. The size of the program is to be limited by the availability of facilities and financial resources. Preference in admission to any such program is to be given to Indians living in Colorado, and they must be granted tuition waivers if not otherwise able to pay tuition.

Explanation: Very little of this appeared in the old Fort Lewis law, although the procedure for fixing tuition fees was understood as part of the Board's over-all management function.

The crucial language of the previous state law on Indian tuition waivers was a proviso (based on a condition in the original 1910 land grant) requiring "that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils". [Old 124-14-2.] Prior to House Bill 1452, the statute did not distinguish between resident and non-resident Indian students and did not mention the special Indian education programs offered at the college. (See the committee's initial report for discussion of interpretations, practices, and developments under the previous law, including the Attorney General's opinion interpreting the effect of the 1916 modification of the conditions in the 1910 federal grant.)

The principal objections to House Bill 1452 centered on the provision limiting the requirement for state-guaranteed Indian tuition waivers so that it covers only Colorado residents who cannot otherwise afford to pay. Opponents of the bill claimed that when the state accepted the original 6,318-acre grant in 1911, it had promised free tuition to all Indians attending Fort Lewis College, resident and non-resident alike, regardless of individual financial need, for as long as the state kept the land, and that the new bill constituted an attempt to break this promise. They feared that the state would cut off its tuition grants for all except resident Indian students and that non-residents would be forced out due to lack of funds. Litigation was threatened and is now pending in federal district court to declare H.B. No. 1452 invalid insofar as it eliminates the requirement for state-guaranteed tuition waivers for (a) non-resident Indian students and (b) resident Indian students who cannot show financial need.

To give full effect to the new policy guaranteeing state tuition waivers for Colorado resident Indians only, it was necesssary to repeal the previous statutory provision

which exempted American Indians at Fort Lewis from state rules on in-state and out-of-state tuition classifications. [Old 124-18-5.] The laws on classification of students as residents for tuition purposes (Article 18 of Chapter 124) are now applicable to Indians at Fort Lewis as well as all other college students in the state. House Bill 1452 repealed old section 124-18-5.

124-14-6 - Text:

> 124-14-6. Donations - power to invest. All donations of money, securities, or other property of whatever kind and wherever situated made to Fort Lewis college shall be held by the state board of agriculture for the use and benefit of Fort Lewis college, to be expended subject to appropriation by the general assembly or invested in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Description: This section spells out the powers of the State Board of Agriculture to accept and hold donations for Fort Lewis College and to invest or expend such donations.

Explanation: Although the previous law on Fort Lewis did not specifically deal with the power of the governing board to accept and manage money and property donated for the use of the college, this does not involve any basic change from present practice. These powers have been assumed and exercised for Fort Lewis by the Board of Agriculture in the past, presumably under the requirement that control and management of the school be the same as for Colorado State University. [Old 124-14-2.]

Expenditure of donations is subject to legislative appropriation, but the donations may be invested by the Board in its fiduciary capacity without specific legislative approval. Investments in securities are governed by the state laws applicable to private trustees.

Article 11 of Chapter 124, the general statute on the State Board of Agriculture, was expanded by House Bill 1452 to include three new sections relating to the Hesperus property. The subject matter of these three sections was previously included in the Fort Lewis article. Transfer to Article 11 emphasizes the separation of the Hesperus site and its management from the affairs of Fort Lewis College in Durango, even though both still remain under the aegis of the State Board of Agriculture. The sections relating to the Hesperus site are analyzed below.

124-11-15 through 124-11-17 - Text:

124-11-15. Hesperus account created. The proceeds of or income from the property formerly known as the "Fort Lewis school", granted by the United States to the state of Colorado, pursuant to an act of congress approved April 4, 1910 (36 Stat. 274) as modified by an act of congress approved May 18, 1916 (39 Stat. 128), shall constitute a special account, which shall be known as the "Hesperus account". The income from said property and from the Hesperus account shall be applied to such public purpose as may be determined by the state board of agriculture, subject to appropriation by the general assembly, except that it shall first be used by the state board of agriculture for tuition waivers at Fort Lewis college, in addition to any other funds appropriated therefor, for qualified Indian pupils who are not otherwise able to pay tuition.

124-11-16. Development of natural resources. The state board of land commissioners is hereby authorized and directed prudently to develop such coal measures, mineral deposits, and oil structures by lease or otherwise as may be situate on lands described in section 124-11-15, but such development shall not unreasonably interfere with the use of such land as may be directed from time to time by the state board of agriculture. Applications for leases of the coal measures, mineral deposits, and oil structures shall be made to the state board of land commissioners, which board may execute such leases in the manner required by law. Rental, royalties, and income therefrom shall be deposited with the state treasurer and credited to the special account established by section 124-11-15.

124-11-17. Power to invest. The state board of agriculture shall have the power to direct the investment of funds held by the state treasurer pursuant to section 124-11-15 in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Description: House Bill 1452 establishes a special account, to be known as the "Hesperus account," to include the proceeds of or income from the 6,318 acres comprising the land grant at Hesperus on which the old Fort Lewis school was originally located. Funds in this special account are to be held by the state treasurer and may be invested, at the direction of the State Board of Agriculture, in such securities as are permitted under state law for private trustees.

The income from the property and from the Hesperus account is to be applied to such public purpose as the State Board of Agriculture shall determine (subject to legislative appropriation); however, the statute requires that first priority on the funds be given to Indian tuition waivers at Fort Lewis College.

Although the use of the land at Hesperus is to be directed by the State Board of Agriculture, authority over the development of the natural resources, including coal measures, mineral deposits, and oil structures, is clearly vested in the State Board of Land Commissioners. The Land Board's development of such resources, by lease or otherwise, must be "prudent" and must not unreasonably interfere with the Board of Agriculture's use of the land. Rental, royalties, and income from natural resource development are to go into the Hesperus account.

Explanation: Under the previous statute there was a permanent endowment fund, called the "Fort Lewis school endowment fund," made up of all rentals and royalties derived from mineral leases on the Hesperus property. [Old 124-14-3.] The permanent endowment fund was to be invested by the State Board of Agriculture in federal or other municipal securities approved by the attorney general. Income from the endowment fund was "for the use and benefit of the Fort Lewis school."2/ [Old 124-14-6.]

The establishment of the permanent endowment fund was not in any way a condition of the federal grant of the Hesperus property. It was merely a statutorily created fund (1925), and as such it was subject to amendment or repeal by the General Assembly at any time. The Colorado Attorney General, in his Opinion No. 71-4562, dated March 18, 1971, concluded that the endowment fund "may be devoted to such public purpose as is authorized by the legislature of the state." (See full opinion for the detailed analysis.)

Under the old law, rental and royalty income from the property was invested and only the income from the investments was expended for the Fort Lewis school. House Bill 1452, on the other hand, provides that both the income from the property

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2/ In actual practice, the Fort Lewis school endowment fund was divided into two accounts -- one (#4-7394) for the income from the property and a second (#4-7404) for the investment income, which was periodically transferred to the general operating account for Fort Lewis College. As of October 22, 1971, the idle cash balance in #4-7394 was $126; the balance in #4-7404 was $1,685, the latter representing the investment income only since July 1, 1971. (The state treasurer's quarterly report for September 30, 1971, shows a total of $95,708 held in investments for the endowment fund.)

(which goes into the Hesperus account) and the income from the account itself can be expended by the Board of Agriculture and the General Assembly, first for Indian tuition waivers at Fort Lewis and then, if funds still remain, for other public purposes.

The earmarking of income from the Hesperus property and the Hesperus account for Indian tuition waivers may have greater significance over the long term than at the present time. Currently, Fort Lewis is being provided with more than the equivalent of the earmarked amount for this purpose. The terms of the statute (that the earmarked moneys shall be "in addition to any other funds appropriated therefor") indicate that in passing House Bill 1452 the General Assembly contemplated an annual appropriation and allocation of Indian tuition funds in excess of the Hesperus income.

There is no guarantee, however, that the present level of state general fund appropriations for this purpose will be sustained or increased. What the earmarking requirement does is establish a special (though limited) source of financing, outside the state's general fund, which must always be available for tuition grants to needy Indian students (resident and non-resident) at Fort Lewis College. Thus, while the income from Hesperus in no way creates a ceiling for Indian tuition waivers, it does provide a floor below which state funding of such waivers cannot fall. The existence of this floor should have a favorable influence on continued state funding for Indian student aid.

As for the use of the Hesperus income for other public purposes, it seems highly unlikely that there will be sufficient funds for Indian tuitions, let alone other purposes, unless there is an unexpected increase in receipts. Until such time as the Hesperus income exceeds the tuition requirements of qualified Indian students who are not otherwise able to pay tuition at Fort Lewis (be it in-state or out-of-state tuition), no portion of the income from the Hesperus property or from the Hesperus account will be available for other public purposes.

The new section authorizing mineral leasing and development of natural resources on the Hesperus property is patterned after two sections in the previous law [old 124-14-4 and 124-14-5] and a 1962 Colorado Supreme Court decision, Sunray Mid-Continent Oil Company v. State, 149 Colo. 159, 368 P.2d 563.

Following the Sunray ruling and applicable directives in the Colorado Constitution, the new provision gives the State Board of Land Commissioners full authority to grant

leases for mineral development. Former requirements for Board of Agriculture consent, invalidated by Sunray, were eliminated from the statute. Mention is made of the Board of Agriculture only insofar as it is impliedly authorized to direct the "use of the land," such use to be without unreasonable interference from the mineral development. It is expected that the Land Board and the Board of Agriculture will continue the informal negotiations and cooperative efforts which have been developed in recent years regarding the use, control, and management of both the surface and mineral rights on the Hesperus property.

Provisions on the execution of leases for mineral development and the disposition of rentals, royalties, and other income remain substantially unchanged from prior law except as indicated above.

Pending Litigation

In July of 1971 a lawsuit was initiated in U.S. District Court in Denver, attacking the constitutionality of a portion of House Bill 1452 (Case No. C-3265). The plaintiffs were Cornell Tahdooahnippah and Phyllis Culbertson and the defendants were the State Board of Agriculture, Fort Lewis College, and their respective presidents. The provisions of new section 124-14-5, involving Indian tuition waivers, are among the matters at issue. The defendants have filed their answer to the complaint but no trial date has been set.

Tuition and Student Aid -- Long Appropriations Bill for 1971-72

The Long Appropriations Bill, Senate Bill 436 (1971), along with the Joint Budget Committee's 1971 "Appropriations Report," provided basic financial guidelines for the Department of Higher Education and the individual colleges and universities, including Fort Lewis, for fiscal year 1971-72.

College Operating Funds -- Fort Lewis

Total appropriated funds in the Long Bill for Fort Lewis College, not including student aid moneys, were as follows:

Appropriations, 1971-72

General Fund	$ 1,428,015
Cash Funds	1,196,326
Federal Funds	206,152
TOTAL	$ 2,830,493

The budget and appropriation figures for Fort Lewis were based on an estimated FTE enrollment of 2,345 students and on academic year tuition rates of $276 for residents and $1,106 for non-residents. In its narrative report, the Joint Budget Committee stated that the special Indian programs at Fort Lewis were to be continued.

State Student Scholarships and Aid

A new system was started in 1971-72 for the allocation of state-financed tuition waivers, scholarships and other student aid. Instead of appropriating separately for student aid at each individual institution, the legislature channeled the moneys through the Commission on Higher Education. A lump sum appropriation of $6,940,188 was made to the Commission for "Student Scholarships and Aid" for 1971-72. 3/ The Joint Budget Committee's 1971 report contains the following statement about the new procedure:

3/ This was in addition to $50,000 for the Teacher Incentive Program; $809,619 for the Work Study Program; and $318,793 for NDEA Loan Matching.

Student aid relative to student tuition has previously been provided to each school as a deduction from the amount of cash income (tuition waiver) needed, with the difference made up in general fund support. Funding of all student aid is provided to the Commission on Higher Education for subsequent allocation to each school based upon some guidelines and priorities set by the Commission. The Commission is requested to develop some alternative State aid and scholarship program recommendations to the next session.

The General Assembly footnoted the $6.9 million appropriation in the Long Bill with suggested amounts for each school but provided that these amounts were only intended to serve as guidelines in the distribution of the funds and could be varied by the Commission. The suggested total allocation for Fort Lewis College was $232,338.

Effect of New Student Aid Procedures at Fort Lewis College

At the June 21 meeting of the Committee on Indian Enrollment Problems, staff members from the Commission on Higher Education described the procedures and guidelines developed to carry out the new student aid system for all state institutions of higher learning. They explained the basis for the tentative allocations for Fort Lewis and conferred with committee members and college officials concerning estimated Indian enrollments, House Bill 1452, and the policies to be followed in providing Indian tuition waivers for 1971-72.

The CCHE allocation for Fort Lewis College showed $58,294 for athletic tuition waivers and a net allocation of $160,829 for non-athletic undergraduate tuition waivers. The Commission's computation for the $160,829 is shown on the following page.

The intention was to protect the current level of commitments for student aid. The amount utilized for non-athletic undergraduate waivers during 1970-71 was $97,710 for residents (399 students at $245 resident tuition) and $21,700 for non-residents (31 students at $700 non-resident tuition). To aid the same numbers of students at the 1971-72 tuition rates would require $110,124 for resident waivers and $34,286 for non-resident waivers.

Under the Commission's expressed policy of adding to the base figure at those institutions having special programs

for disadvantaged students, 100 additional resident tuition waivers ($27,600) were added for Fort Lewis.

As for all state schools, six and one-half per cent of the allocation was withheld and placed in a central reserve to be used by the Commission to aid in the solution of particular unforeseen problems which might arise at the institutions.

Thus the net allocation (at 93.5%) for non-athletic undergraduate waivers at Fort Lewis for 1971-72 was $160,829. The funds could be distributed between residents and non-residents as the college determined, without regard for the method by which the total amount was computed.

Undergraduate Tuition Waivers for 1971-72 (Excluding Athletics)

$\frac{\$97,710}{245}$ = 399 resident FTE Waivers

$\frac{\$21,700}{700}$ = 31 non-resident FTE Waivers

399 x $276 (71-72 resident tuition) = $110,124
31 x $1,106 (71-72 non-resident tuition) = $34,286

$110,124 + $34,286 = $144,410 = funds needed to maintain current status

$144,410 + $27,600 (100 resident waivers) = $172,010

$172,010 x 93.5% = $160,829 = net allocation after creation of reserve.

According to the Commission staff and college officials, all Indian students at Fort Lewis have been considered residents of Colorado for tuition purposes in past years. This was true even though only a small number of those students actually had a Colorado domicile.

Under House Bill 1452, newly entering Indian students whose domicile lies outside the boundaries of Colorado will be subject to non-resident, rather than resident, tuition rates.

At the time of the June meeting, estimates were that there would be approximately 150 "continuing" students eligible for Indian tuition waivers in the fall. These included previously enrolled students, nearly all non-residents, who had been receiving tuition waivers computed at the resident rate. It was agreed that waivers for these students would be

maintained -- in keeping with the legislative declaration of House Bill 1452 -- and could be computed at the resident rate.

In addition, the college was anticipating 65 newly entering Indian students. Noting that non-resident tuition waivers for these students would total an estimated $71,890, college officials questioned the ability of the college to devote this much state student aid money to this group. The net allocation of $160,829 must cover all students -- Indian and non-Indian, resident and non-resident. College estimates indicated that the allocation could take care of 40 of the 65 expected new Indian students, but additional funds would be needed if waivers were to be provided for the other 25.

It was agreed that the Commission on Higher Education would be asked to consider using a portion of its central reserve to assure that waivers would be available at the non-resident rate for all newly entering Indian students not domiciled in Colorado. (If federal funds were later obtained for 1971-72, it was understood that such a request would not be necessary.)

The committee adopted a motion officially stating these policy positions:

(1) That continuing Indian students should be classified as Colorado residents with full resident tuition waivers;

(2) That new Indian students should be classified as residents or non-residents according to domicile; and

(3) That the Commission on Higher Education will be asked to provide sufficient grant funds to provide tuition waivers for up to 65 new non-resident Indian students this year.

These statements were used as guidelines in the registration and financial aid procedures at Fort Lewis College during the summer months. It was clear to committee members, college officials, and the Commission staff, however, that efforts to obtain federal moneys to cover tuition costs of Indian students would be pursued fully with a view to eliminating the need for state-financed tuition waivers, at least for newly entering non-resident students.

Efforts to Obtain Non-State Funding

The above plans for state funding to take care of tuitions for all Indian students expected at Fort Lewis this year -- surpassing the state's legal obligation as necessary where federal funding could not be obtained -- were essentially "back-up" plans formulated in the interests of the students themselves. It was felt that the students should be notified as early in the summer as possible that they would be receiving tuition grants for 1971-72 from some source, either state or federal, and need not worry about having to stay out of school in the fall due to lack of tuition. Thus the young people involved were not left with their future plans hanging in the balance awaiting the resolution of a governmental controversy which could go on for months. Although this position probably put the state at a disadvantage once it became known to the Bureau of Indian Affairs, the timing this year was such that it seemed the only reasonable thing to do under the circumstances.

Efforts have been made to obtain federal funding for non-resident Indian students for 1971-72 as well as for future years. The committee fully supports the concept embodied in House Bill 1452, that the ultimate responsibility for the tuition of non-resident Indian students lies with the federal government and the students' home states, not with the state of Colorado. In keeping with this philosophy, the committee has concentrated much of its attention this year on locating sources of federal financial assistance for Indian students and the Indian education program. To the extent that this end can be accomplished for 1971-72 (specifically as regards tuition for newly entering non-residents), the use of state funds under the "back-up" plans for this year will not be necessary.

The new limitations on the legal obligation of the state have greatly improved the committee's long-term bargaining position over last year. Because of the new law, federal officials are aware that current state financing of Indian tuition costs is transitional and short-term for all except Colorado resident Indians. For instance, it is clear that tuition waivers for "continuing" students will drop off each year and can be expected to end no later than the 1974-75 school year. More importantly, this year's arrangement for the tuition of newly entering non-resident Indians (whereby state funding has been guaranteed if necessary in the absence of federal assistance) is likewise merely transitional. Policies for this year can be attributed primarily to the timing problems involved in implementing the new law and the commit-

tee's uncertainty about the chances for federal assistance on such short notice for the current school year.

The point is, practices followed by the state this year cannot be considered as representing any long-range decisions regarding the extent to which Colorado should continue to participate in the financing of tuition costs for Indian students from other states. Whether, and to what extent, future state aid moneys are allocated in an amount sufficient to cover additional Indian tuition waivers -- over and above the absolute legal obligation under House Bill 1452 -- will be a matter for policy decision each year.

The paragraphs below briefly describe the committee's efforts to obtain commitments from various federal officials and agencies toward meeting this year's needs and establishing desirable precedents to be followed in future years for Indian students at Fort Lewis.

Exploratory Contacts With Federal Officials

In May, soon after the committee was reconstituted, two committee members who were in Washington, D. C. on other business -- Senators Noble and Ruland -- had an opportunity to meet with a friend and former resident of Colorado's Western Slope, Mr. Harrison Loesch, now Assistant Secretary of the Interior for Public Land Management. They explained the Fort Lewis Indian tuition problem and Colorado's feeling that federal funding should be available for Indian students who come to Fort Lewis from other states. Mr. Loesch indicated that there should be no problem obtaining full BIA scholarship funds for Indian students at Fort Lewis, especially since an additional $9 million had recently been made available to his office for just such educational purposes.

Shortly thereafter, in early June, a group of Colorado legislative leaders, including Representative Bryant, met in Washington with members of the Colorado congressional delegation and their staffs to consider a number of problems involving federal-state relations. Mr. Loesch was invited to participate in a discussion of federal assistance for Indian students and special Indian education programs at Fort Lewis College.

Mr. Loesch stated at this meeting that the Bureau of Indian Affairs is prepared to provide scholarships, including non-resident tuition, for all Indian students who wish to attend Fort Lewis (according to present BIA projections of demand). He said that the scholarship grants would be handled on an individual basis under BIA's existing scholarship pro-

gram. Although he made it clear that Fort Lewis could not be singled out for special treatment or special funds, he did repeat what he had told Senators Noble and Ruland earlier -- that sufficient funds were available in the Department to take care of the full cost of non-resident tuition (as well as other college expenses) for the out-of-state Indian students attending Fort Lewis.4/

When asked whether any Interior Department funds could be made available in the form of a block grant or other direct distribution to the college, either for program support of the special Indian education curriculum or for consolidated administration of the scholarship grants, Mr. Loesch said no moneys could be granted directly to the college. He indicated that the only assistance from the BIA or the Interior Department would be through the regular scholarship program under which each student selects the college he wishes to attend and submits his own grant application to his local area BIA office for individual evaluation. He did conclude, however, with the promise that the BIA will continue to examine the entire problem of funding for the Indian education program at Fort Lewis.

Senator Gordon Allott's staff offered to assist Representative Bryant and the committee in pursuing possible program assistance through the Department of Health, Education, and Welfare as well as the Interior Department.

Department of the Interior, Bureau of Indian Affairs

At its June meeting, the committee heard reports of the above-described meetings with Mr. Loesch and was encouraged by his assurances that BIA grants for non-resident Indian students would be forthcoming. Discussion then centered on what committee actions were needed to bring Mr. Loesch's promises to fruition.

It was agreed that the college and the committee should try to establish appropriate procedures in time for the beginning of the fall trimester, 1971. Federal tuition grants would be sought only for non-resident Indian students, since under House Bill 1452 the state has full responsibility for the tuition of Indians who are Colorado residents.

4/ Mr. Loesch did caution during the discussion that under the U.S. Government appropriation format, no out-year commitments are possible by the Executive Branch.

To facilitate uniform handling of all applications from Fort Lewis students for BIA payment of non-resident tuition charges, the names and tribal locations of all Fort Lewis applicants were compiled for hand delivery, in a block, to the central office in Washington. Plans were made for Representative Bryant, President Rexer Berndt of Fort Lewis College, and Legislative Council Staff Director Lyle Kyle to meet with Mr. Loesch and members of his staff in Washington in late July to discuss precise methods for following through on the students' individual applications to the BIA area offices.

Copies of approximately 200 individual "permits to register" were submitted to Mr. Loesch and Dr. James Hawkins, Director of Education for the Bureau of Indian Affairs, at this meeting. The permits identified by name, address, and tribe all the non-resident Indians, both continuing and newly entering, who had applied and been accepted at Fort Lewis for the fall term.

Mr. Loesch and Dr. Hawkins accepted the permits and repeated earlier statements that the BIA would cover the cost of non-resident tuition for all of these students. Dr. Hawkins agreed to send to each area office a list of the names of persons within its jurisdiction who had been accepted at Fort Lewis, accompanied by instructions directing area office personnel to approve requests from the named individuals for full non-resident tuition grants.

Relying on the agreements reached in this meeting, President Berndt immediately directed his staff to inform the students that tuition grants of $1,106 would be available through their respective BIA area offices and that applications should be submitted as soon as possible.5/

5/ College communications to Indian students over the summer on the matter of tuition grants apparently resulted in widespread confusion among students, college officials, and the BIA area offices. Most of the students had already been notified by the college that their tuition for 1971-72 would be covered, the implication being that the funds were available from the state and would not have to be granted by the BIA. Those whose applications for BIA scholarship aid had been submitted in the spring or early summer may not have understood the college's belated request (in late July) that they submit an additional application asking for $1,106 non-resident tuition on top of the board and room previously requested. Due to the unusual combination of circumstances, including the policy

When it appeared that there was not going to be any immediate response from the area offices in the form of BIA grants of $1,106 non-resident tuition for the students whose names appeared on the list, Representative Bryant again went to the BIA Washington office. In Dr. Hawkins' absence, he conferred with Mr. George Scott, Deputy Director of Education.

Representative Bryant reported that in the course of this meeting, he and Mr. Scott agreed that the BIA would provide scholarships -- including the full non-resident tuition of $1,106 -- for all newly entering non-resident Indian students at Fort Lewis College.6/

This was a compromise position whereby the responsibility for non-resident tuitions would be shared by the state and the BIA. Although BIA grants for "continuing" non-resident students would be welcomed by the state, the compromise provided that the state would take care of tuition waivers for all students who were enrolled and in good standing prior to July 1, 1971. The BIA would be asked to cover only the tuitions of new non-resident Indian students; newly entering students domiciled in Colorado would of course be state-funded pursuant to the requirements of House Bill 1452.

In a letter several weeks later Mr. Scott stated that contrary to Representative Bryant's understanding from their earlier meeting, the BIA could not guarantee the $1,106 non-resident tuition, even for newly entering non-residents. He said that Indian students applying for BIA scholarships to attend Fort Lewis would have to follow the regular applica-

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decision to give a "back-up" guarantee using state moneys, plus the over-all time pressures involved, the state has probably been as much responsible as the BIA for the subsequent failure of what had originally appeared to be a simple and reasonable approach.

6/ Originally in negotiations with federal officials the state had requested BIA tuition grants for all non-resident Indian students, with no distinction between "new" and "continuing" students. However, the declaration of legislative intent in House Bill 1452 provides justification for state funding of tuition waivers for "continuing" students as long as they are enrolled at Fort Lewis. (See discussions earlier in this report.)

tion procedures used by all Bureau scholarship grant recipients (implying that Dr. Hawkins' earlier instructions to area offices directing approval of the full $1,106 non-resident tuition in all Fort Lewis cases would not be given effect in the processing of applications at the local level).

Following receipt of Mr. Scott's letter, Representative Bryant contacted Mr. Loesch's office several times by phone to clarify the lines of authority within the Department and the Bureau and to establish once again the agreement guaranteeing that BIA grants, including the full $1,106 non-resident tuition, would be available for all new non-resident Indian students starting with the Fall, 1971 term. Mr. Loesch and his staff repeated their assurances that BIA funds would be available for this purpose and confirmed Representative Bryant's understanding that the BIA would pay the full cost of non-resident tuition for newly entering Indian students.

The full committee met in Durango in mid-September, just one week after registration at the college. Mr. Scott was in attendance as a representative of the BIA. Representative Bryant reported on the progress of negotiations with the Interior Department and the BIA, including the steps outlined above.

College officials informed the committee that, as of September 13, no BIA grants to Fort Lewis Indian students had included the $1,106 non-resident tuition. They noted, however, that some of the area offices were still processing grant applications and consequently the committee could not expect complete and accurate information on the precise status of the tuition grants for another month or so.

Mr. Scott took this opportunity to explain to the committee the background for his position that the BIA could not guarantee grants to cover the full non-resident tuition for Fort Lewis Indian students. He described the procedures required by BIA rules and regulations for all scholarship grant applications. He also cited the shortage of BIA funds for higher education and said that, in the absence of state tuition waivers, two Indian students could be funded at resident tuition rates in their home states for the cost of just one non-resident student at Fort Lewis. He commented that the Washington office was in agreement that Fort Lewis should not be singled out for special treatment.

Responding to Mr. Scott's concern over tuition differentials, Representative Bryant noted Mr. Loesch's stated position that an Indian student should be able to obtain full BIA funding to go to the college of his choice, even if that college is in another state.

Since Representative Bryant had been in such close and recent contact with Mr. Loesch and others in Washington, the committee chose to disregard the negative position taken by Mr. Scott and rely instead on the fundamental commitment made by Mr. Scott's superiors. The college was directed to proceed on the assumption that full BIA grants including the $1,106 tuition would be forthcoming for all newly entering Indian students.

By early November the college was able to compile the necessary data to inform the committee of the exact situation with the BIA grants. According to information submitted November 9, there are 37 "first time" non-resident freshman Indian students attending Fort Lewis this fall with the assistance of the BIA (or the All Indian Pueblo Council). The $1,106 non-resident tuition for the fall and winter trimesters for 34 of these students is still due from the BIA area offices and the AIPC.7/

Fort Lewis College has prepared invoices addressed to each of the appropriate Indian scholarship offices showing the balance due for tuition for these 34 students. The billings are as follows:

Window Rock (14 students)	$15,484
Anchorage (7 students)	7,742
All Indian Pueblo Council (6 students)	6,636
Albuquerque Area Office (3 students)	3,318
Indian Affairs Data Center in Albuquerque (2 South Dakota students)	2,212
Phoenix (1 student)	1,106
Cherokee, North Carolina (1 student)	1,106
Total	$37,604

The committee has presented these invoices to Dr. Hawkins with a request that he insist that the area offices pay the amounts due as soon as possible, or that the payments be made directly from the Washington office.

7/ The tuition needs of three of the 37 have been covered by grants through the BIA, the AIPC, and the G.I. Bill. In addition, tuition grants from the State of Colorado were available for the other 150 Indian students enrolled at Fort Lewis College. These students were entitled to grants this year either as residents of Colorado or as "continuing" students who had been enrolled and in good standing prior to July 1, 1971.

Negotiations on the invoices are not yet completed, but the committee is still optimistic that the payments will be made. If the funds are granted, a precedent will have been established which the college and the Commission on Higher Education can utilize in the future.

Department of Health, Education and Welfare

Concurrently with the effort to obtain BIA tuition grants for individual students, the committee was working with the Department of Health, Education and Welfare in an attempt to increase various HEW grants which would contribute to the continuation and improvement of the Indian education program at Fort Lewis.

As part of their Washington visit in July, Representative Bryant, President Berndt, and Mr. Kyle met with Mr. John Driscoll, then Acting Director of the Office of American Indian Affairs in the U. S. Office of Education. They discussed with him the possibilities for continued and increased allocations in response to Fort Lewis' requests for funding for the Intercultural Program (under Title III of the Higher Education Act of 1965) and Project TRAIL (under Title I of the Higher Education Facilities Act of 1963), and also for educational opportunity grants, cooperative education, work study, and student loans. Mr. Driscoll seemed interested in the Fort Lewis program, promised his cooperation, and offered to look into possibilities for additional sources of funding.

The committee made no further attempt to communicate with HEW or the Office of Education about progress on the funding requests until mid-October, at which time a follow-up letter was sent detailing some of the most pressing 1972-73 needs and asking Mr. Driscoll to renew his efforts on behalf of the Fort Lewis Indian education program. In addition to the programs discussed in July, the committee asked about additional sources of funding for teacher education, specifically as it relates to Indian students preparing to teach in bilingual and bicultural situations.8/

8/ Teacher education improvement was one of the items repeatedly raised by Indian students testifying before the committee at its September meeting on the Fort Lewis campus. There was a strong feeling among students majoring in education that the student teaching experience and the courses in educational methods were not relevant to their needs and should be revised to include more of the tools needed for teaching Indian children.

The only reply received from Mr. Driscoll's office to date has been a brief acknowledgement from Helen Scheirbeck, Director of the Office of American Indian Affairs, U. S. Office of Education. Ms. Scheirbeck merely stated that her office was "most interested in being of assistance to the administration and Indian students at Fort Lewis College in enhancing Indian educational opportunities." She asked to be kept informed of developments at the college.

There appears to be nothing more the committee can do for the time being about increasing HEW assistance for the Fort Lewis Indian education program. Further efforts in this regard will be up to the college and the Commission on Higher Education.

Western Interstate Commission for Higher Education

The committee, feeling that tuition for non-resident Indian students attending Fort Lewis should be primarily a federal responsibility, has chosen not to pursue the interstate compact approach, e.g., WICHE (the Western Interstate Commission for Higher Education), until all possible sources of federal financing have been fully explored. Even so, the potential for establishing a workable interstate exchange arrangement for Indian students should certainly be kept in mind and should be thoroughly studied in the event the state is unsuccessful in obtaining federal funds. Mr. Kevin Bunnell and Ms. Paula Palmer of the WICHE staff have indicated a willingness to make WICHE's experience and resources available if and when the interstate approach becomes necessary or advisable.

Fall Registration, 1971 -- Indian Enrollments and Financial Aid

The committee met on the Durango campus September 13 to find out what actually had occurred at registration the preceding week in terms of Indian enrollments and financial aid. The paragraphs below are based on the information presented at that time, with some statistical revisions made by college officials to reflect changes and developments through the first of November.

College Procedures

To assist in the transition to the new Indian tuition waiver policies, Fort Lewis College organized a Tuition Grant Sub-Committee to formally award or deny tuition grants to Indian applicants in accordance with House Bill 1452 and the new financial aid guidelines promulgated by the Commission on Higher Education this year. Chaired by Mr. Buford Wayt, this five-member group serves as a subcommittee of the Fort Lewis Financial Aids Committee. The subcommittee began by formulating a set of administrative guidelines and then took on the responsibility for reviewing applications and generally overseeing the administration of Indian tuition grants. (See Appendix C for the full statement of the responsibilities, policies, and procedures of the subcommittee.)

Under the supervision of the subcommittee, approximately 300 notices explaining tuition grant procedures were sent to continuing and newly entering Indian students early in the summer. In the case of advance registered continuing students, the notices confirmed that they had been granted tuition waivers for 1971-72 and merely asked for the students' acceptances. In all other cases the students were encouraged to submit applications for their Indian tuition waivers, but the initial notices did not include commitments on the part of the college.

As was noted earlier in this report, there was no doubt about the source of the funding or the availability of the waiver for Colorado resident Indians and students who had been enrolled and in good standing prior to July 1, 1971. Consequently, upon receipt of the application for waiver the college could notify the student unequivocally that the state would cover the cost of his tuition. For newly entering nonresident Indian students, however, the source of the funds was not clear. Nevertheless, with the beginning of the fall term fast approaching, these students were also given the assurance that tuition grants would be available for them -- from some

source -- so that they could go ahead and make their plans for school. In the interests of the students who needed to know whether they would be in school at Fort Lewis or not, the college told them that their tuition would be covered and that it would be for the officials, not the students, to worry about the source of the funds.

The college was apparently successful in this procedure, as evidenced by the fact that none of the student testimony during the hearing portion of the meeting revealed concern over whether waivers for non-residents would be granted this fall. The availability of the waivers seemed to be assumed for both new and continuing students, and few appeared aware of the existence or nature of negotiations between the state and the Bureau of Indian Affairs over who would ultimately pay the bill for new non-resident Indian students.

Indian Students Enrolled

The latest enrollment figures for the fall term show a total of 187 Indian students at Fort Lewis. Nineteen of these are classified as Colorado residents:

Continuing Students		No.
Seniors	6	
Juniors	2	
Sophomores	2	
Freshmen (not "first time")	1	
Unclassified	1	
Subtotal	12	12
First Time Freshmen		7
TOTAL		19

The other 168 are all non-resident students:

Continuing		No.
Seniors	22	
Juniors	22	
Sophomores	50	
Freshmen (not "first time")	31	
Unclassified	6	
Subtotal	131	131
First Time Freshmen		37
TOTAL		168

They represent approximately 35 different tribes and come from the following states:

State	No.
New Mexico	104
Arizona	30
Alaska	17
California	5
South Dakota	5
North Carolina	2
Idaho	1
Nevada	1
Texas	1
Illinois	1
Wisconsin	1
TOTAL	168

The total of 187 Indian students fell short of the 215 estimated by college officials in June. The proportions of "new" and "continuing" students also differed somewhat from the June estimates. Whereas the estimate had been for 65 newly entering students, the number classified by the college as "first time" freshmen includes only 37 non-residents (considered eligible for BIA tuition requests) and seven residents. The number of non-residents to be granted state tuition waivers as "continuing" students had been estimated at 150 but is in fact 131, with waivers also being granted to 12 "continuing" students who qualified as residents.

Ramifications for the Financial Aid Program

Residents. The state is required by the provisions of House Bill 1452 to grant tuition waivers to all Colorado resident Indians who are not otherwise able to pay tuition. At the current resident tuition rate of $276 per student for the fall and winter trimesters, the 19 resident students require a total allocation of $5,244 for 1971-72 (not including the spring trimester).

Tuition waivers for resident Indians attending Fort Lewis will be a continuing annual expense. The cost can be expected to vary slightly from year to year, depending on the number of resident Indian students enrolled and possible changes in the school's resident tuition rate.

Continuing non-residents. It appears that a policy has been fairly well established for state funding of the tuition costs of non-resident Indian students who were enrolled

and in good standing at Fort Lewis prior to July 1, 1971. The state's commitment under this policy will be reduced each year as students graduate, and eventually no state funds will be required for this purpose.

The computation of tuition waivers for all continuing students is at the resident rate. Therefore, the total allocation for the 131 continuing non-resident students for the fall and winter trimesters this year amounts to $36,156. Next year, after the seniors have graduated, the estimated allocation will be down to about $30,000. Using the current tuition rate and assuming maximum retention, the cost of funding continuing students would probably be about $10,000 in 1974-75 when the last of this year's freshman (but not "first time") students graduate.

Newly entering non-residents. The committee expects that the Bureau of Indian Affairs will cover 1971-72 tuition costs for the 37 newly entering non-resident students, including the 34 for whom invoices have been presented (a total of $40,922 for the 37 at the 1971-72 non-resident academic year tuition rate of $1,106.) It has been one of the goals of the committee to establish a procedure for use over the long term which would recognize that tuitions for new non-resident students are a federal and not a state responsibility. Thus the committee is anxious to reach a favorable settlement of this year's negotiations with the BIA as quickly as possible to create the necessary precedents.

It is important that appropriate procedures be established before next fall in order to avoid penalizing Indian young people from other states who wish to enter Fort Lewis but cannot afford the non-resident tuition without outside assistance. Therefore, if the state is not successful with the BIA this year, negotiations for 1972-73 should begin immediately. It appears highly unlikely that state funding can be sustained even through 1972-73 at a level which would cover Indian tuition grants for all new non-residents in addition to Colorado residents and "continuing" non-residents. To meet the needs of newly entering non-resident Indian students, it is essential that the principle of full federal funding be firmly established.

The Hesperus Property and the Hesperus Account

The status of the 6,318 acres at Hesperus was the subject of much discussion during the 1971 legislative session when House Bill 1452 was under consideration. There were claims that the land should revert to the Indians for the state's failure to continue its statutory guarantee of free tuition for all Indian students at Fort Lewis College. As a means of protesting the passage of House Bill 1452 -- and to focus attention on the Indians' claim to the land -- several Indian demonstrators set up camp on the property. A few of the demonstrators were still camped there at the time of the committee's visit to the site in September, but the camp had reportedly been closed down by early October.

For the purposes of this discussion, it is assumed that the 6,318 acres will remain under state ownership and control, at least pending the outcome of litigation on the question. Meanwhile, the provisions of House Bill 1452 have intensified legislative as well as Indian interest in what is going on at the site, what the income potential is, and how the income from the property and the investment income are handled.

The new provision creating the need for current information about Hesperus is the requirement (in new 124-11-15) that first priority on all income from the Hesperus property and the Hesperus account be given to Fort Lewis Indian tuition waivers.

The Hesperus Site -- Use and Income

The first report of the committee traced the early history of the Hesperus site, including the fact that since the Fort Lewis school was moved into Durango in 1956 the property has been used as an agricultural experiment station, a use specifically authorized under the terms of the 1916 modification of the 1910 federal grant.

Under the Colorado Constitution, Article IX, Sections 9 and 10 (interpreted by the Colorado Supreme Court in Sunray Mid-Continent Oil Co. v. State, 149 Colo. 159, 368 P.2d 563 (1962), the lands at Hesperus -- having been granted to the state by the federal government -- are under the direction and control of the State Board of Land Commissioners.

Surface leasing. The Land Board reports that the State Board of Agriculture (the body responsible for agricultural

experiment stations) has a ten-year surface lease on the property, signed July 1, 1962. The total annual rental payable to the Land Board under the lease is $3,470.82 (grazing land at $.40 per acre and agricultural land at $3.00 per acre). Beginning in 1969, however, the cost of a weed control program conducted at the station was deducted from the cash payment. Thus the following cash amounts were received by the Land Board for surface rentals on the Hesperus property over the last five years:

Year Ended	Amount
6-30-67	$3,470.82
6-30-68	3,470.82
6-30-69	1,787.36
6-30-70	1,670.82
6-30-71	1,670.83

The Attorney General ruled on March 18, 1971, that the State Board of Agriculture need not pay a rental charge to the Land Board for use of the property for an agricultural experiment station, since the terms of the federal grant "make no provision for payment of rent when the land grant is utilized in a manner consistent with the terms of the grant." (A.G. Opin. No. 71-4562.) This means that the operation of the experiment station will produce no surface rental income for payment into the Hesperus account unless the State Board of Agriculture voluntarily authorizes continued payment.

Oil and gas leasing. In addition to the surface lease described above, the State Board of Land Commissioners has periodically negotiated other leases for the development of natural resources on the Hesperus property. The oil and gas leases executed in 1957 were the subject of the controversy which resulted in the 1962 Sunray decision discussed above.

Land Board records show that there have been no oil and gas leases on the property since 1967. For the year ended June 30, 1967, a lease with Texaco yielded a total of $2,200, but there has been no income from oil and gas leases since that time.

Coal leasing. The Land Board also reports that there are no coal leases presently outstanding. A coal lease with Peabody Coal Company ended in 1970. Amounts received from coal leasing during the last five years are shown below:

Year Ended	Amount
6-30-67	$1,130.90
6-30-68	2,603.50
6-30-69	2,585.50
6-30-70	2,585.50
6-30-71	--

Timber sales. According to the Land Board, the only other source of income from the Hesperus property in the last five years has been $355 in 1970 under a timber contract which began December 15, 1969 and terminates April 15, 1973. The maximum revenue possible over the period of this contract is $3,000.

Future income from the property. It is obvious from the foregoing that there will be little or no future income from the Hesperus property unless the State Board of Agriculture decides to continue the payment of rentals or make payments in lieu of rent, or unless new mineral leases are negotiated, or both.

Committee consideration of income potential. The committee, in an effort to assure maximum incomes for deposit in the Hesperus account for Indian tuition waivers, held discussions with representatives of both the Land Board and the Board of Agriculture concerning possible ways of increasing the income from the Hesperus property. The staff of the San Juan Basin Branch Experiment Station conducted an on-site tour and briefing session for the committee regarding the present utilization of and potential for the 6,318 acres.

The station serves a six-county area in the San Juan Basin and the research program includes agronomy, animal science, and range management adapted to the topography and climatic conditions of the area. The committee was impressed with the operation and agreed that many of the benefits would be lost if an attempt were made to move the station to another part of the state. The experimental program is of great value to the farmers and ranchers of the Basin, including the Southern Ute and Ute Mountain Ute Indians. The committee concluded that, considering the limited water rights and the proliferation of scrub oak, the experiment station is probably the most productive surface use for the property and no attempt snould be made to move it or replace it with something else.

The committee did ask the State Board of Agriculture to consider resuming rental payments on the property, even though such payments are not legally required. This would assure a minimum annual income from the property to go into the Hesperus account for Indian tuition waivers. The Board of Agriculture has not yet made a decision on this matter. (Any amount of rent paid to the Land Board for deposit in the Hesperus account would of course be recorded as an added cost in the operation of the experiment station.)

The committee also asked that the advisory committee for the San Juan Station be expanded as soon as possible to include Indian representatives. The experiment station staff

agreed to make additions from among the Southern Utes, the Ute Mountain Utes, and possibly other tribes. At its June meeting, the committee had spent considerable time exploring the possibility of establishing an ad hoc committee with extensive Indian representation to participate in deliberations on the use of the Hesperus property. The agreement to include Indians on the San Juan Station advisory committee will help satisfy the need for Indian participation in decision-making concerning the property.

In considering the question of whether a coal lease permitting strip mining should be negotiated by the Land Board, the committee took note of the widespread public opposition to strip mining, especially in the Four Corners area at the present time.

In cooperation with the Land Board, the State Board of Agriculture is in the process of developing a set of coal lease requirements, including limitations on the rate of development, strict requirements for reclamation and restoration, and a state veto power on the location of the mining. (See new section 124-11-16.) The committee is in general agreement that such precautions are advisable prior to final action on any mineral leasing at Hesperus.

According to the Land Board, there is a potential for revenue from mineral leases on the property. It is important that this potential be weighed against the extent to which the mineral development would be detrimental to the operation of the experiment station and the ecology of the area. Therefore, the committee encourages the general "balancing" approach begun by the Board of Agriculture on this question. At the same time, the committee urges that favorable consideration be given at least to those developments which would produce increased mineral income without seriously jeopardizing the present uses or despoiling the property. It must be kept in mind that increased income from the property will mean increased funds in the Hesperus account earmarked for Indian tuition waivers.

The New Hesperus Account -- Anticipated Income

Under House Bill 1452, the proceeds of or income from the Hesperus property constitutes the "Hesperus account." The State Board of Agriculture is authorized to expend both (1) the income from the property, i.e., the funds in the account itself, and (2) the income from the account -- in each case giving priority to Indian tuition waivers at Fort Lewis. Investment of the funds is also authorized.

Income from the property. As was discussed above, there is some doubt about the availability and extent of any future income from the property. Past income, however, has been accumulating over the years in a permanent endowment fund and amounts to approximately $96,000. Until July 1, 1971, this past income constituted the "Fort Lewis school endowment fund;" now it is part of the Hesperus account.

The committee has assumed that future income from the property would be handled separately from past income. Future income might be utilized immediately for Indian tuition purposes, while the past income could remain invested.

Income from the account. The $96,000 past income from the property is currently invested by the Board of Agriculture with the state treasurer acting as custodian. At an estimated six percent rate of return, the investment income on this amount is figured at approximately $5,700 per year.

Prior to House Bill 1452 the annual investment income from the $96,000 simply became part of the general operating funds of Fort Lewis College. Now (if the $96,000 is not used up immediately for Indian tuitions but rather remains invested) the $5,700 in income from the Hesperus account would be earmarked each year for Fort Lewis Indian tuition waivers -- an amount always available, sufficient to cover at least the cost of tuition for the anticipated number of Colorado resident Indian students.

The income from the Hesperus account would of course be in addition to whatever future income from the property might be made available for Indian tuition purposes through Board of Agriculture surface rentals or mineral lease receipts. Further, the $5,700 would have to be supplemented by general fund appropriations; allocations over and above the earmarked amount for Indian tuition waivers will be expected and, in fact, necessary for the next several years.9/

9/ The state's commitment to cover the tuition costs of "continuing" non-resident students will extend at least through 1974-75.

Appendix A

HOUSE JOINT RESOLUTION NO. 1029

By Representatives Quinlan, Bryant, Wells, Arnold, Baer, Bain, Benavidez, Bishop, Black, Burns, Byerly, Carroll, Chestnutt, Cole, Coloroso, Cooper, Davidson, DeMoulin, Dittemore, Edmonds, Evetts, Farley, Fentress, Friedman, Fuhr, Gallagher, Gustafson, Hamilton, Hart, Hinman, Horst, Jackson, Johnson, Kirscht, Knox, Kopel, Koster, Lamb, Lamm, Lindley, Lucero, Massari, McCormick, McNeil, Miller, Moore, Mullen, Munson, Newman, Pepper, Porter, Rose, Sack, Safran, Schafer, Schmidt, Shore, Showalter, Sonnenberg, Sooter, Stonebraker, Strahle, Strang, Valdez, and Younglund; also Senators Dines and Noble.

WHEREAS, Fort Lewis College in Durango, Colorado, has developed an outstanding program of Indian education serving American Indian students from throughout the nation; and

WHEREAS, The terms of the federal grant of the original Hesperus campus of the Fort Lewis school and the traditional role of the college in providing tuition-free Indian education impose a moral obligation on the State of Colorado to continue and improve the Fort Lewis College Indian education program; and

WHEREAS, The state has only limited funds available to fulfill its moral obligation to provide tuition waivers, scholarships, and other financial assistance for Indian students attending Fort Lewis, even though Indian enrollments are rapidly increasing; and

WHEREAS, It may be some time before litigation is completed on the question of whether the state has a legal obligation, under the terms of the original federal grant, to provide tuition-free education for Indian students at the college in Durango; and

WHEREAS, Legislative assistance will be helpful to the State Board of Agriculture and the administration of Fort Lewis College in determining policy and seeking ways of dealing with the question of the legal obligation, the moral obligation, and the budgetary limitations during the next few months; and

WHEREAS, The Indian students, the college, and the state as a whole will all benefit from legislative participation in the quest for financial assistance from outside sources, particularly the federal government and other states; and

WHEREAS, The Legislative Council Committee on Indian Enrollment Problems has recommended the continuation of its study to accomplish these ends; now, therefore,

Be It Resolved by the House of Representatives of the Forty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

(1) That the Legislative Council shall appoint a committee to continue the study of Indian enrollments and tuition waivers at Fort Lewis College. The study shall include, but shall not be limited to, a review of possible outside sources of financial assistance for Indian students and funds for the continuation, improvement, and possible expansion of the Indian education program at the college.

(2) That the Legislative Council shall submit its report of findings and recommendations to the second regular session of the Forty-eighth General Assembly.

(3) That all expenditures incurred in the conduct of the study directed by this resolution shall be approved by the chairman of the Legislative Council and shall be paid by vouchers and warrants drawn as provided by law from funds allocated for Legislative Council studies from appropriations made by the General Assembly.

SCHOOLS II — STATE UNIVERSITIES,
COLLEGES, AND ACADEMIES

CHAPTER 309

SCHOOLS II — STATE UNIVERSITIES, COLLEGES, AND ACADEMIES

FORT LEWIS COLLEGE

House Bill No. 1452. By Representatives Bryant, Quinlan, Wells, Baer, Byerly, Edmonds, Koster, McNeil, Miller, Sack, Schafer, Sooter, Strang, and Younglund; also Senators Jones and Noble.

AN ACT

RELATING TO FORT LEWIS COLLEGE.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. Article 14 of chapter 124, Colorado Revised Statutes 1963, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 14

FORT LEWIS COLLEGE

124-14-1. Legislative declaration. The general assembly hereby finds, determines, and declares: That Fort Lewis college had its beginnings on land originally set aside by the federal government as an Indian school; that a sizeable Indian student population on the campus of Fort Lewis college is desirable; that the state will continue and improve the outstanding Indian education program now in existence at Fort Lewis college; that although this article is intended to establish the obligation of the state of Colorado in this regard, the state intends to pursue all other possible sources of funding for program development and student aid for the Indian education program; and that the state further intends to assure continuity in the Fort Lewis college program for all qualified Indian students who were enrolled and in good standing prior to the effective date of this article.

124-14-2. College established — objects. A college is hereby established to be known by the name and style of "Fort Lewis college", to be located at Durango, Colorado, to afford a curriculum in the sciences, arts, business, education, and vocational education.

124-14-3. Governing board — general power. The governing board of Fort Lewis college shall be the state board of agriculture which

shall have general supervision of the college and plenary power to enact rules and regulations for the governing of the college.

124-14-4. Governing board — powers. (1) (a) In addition to those powers conferred elsewhere in this article, the state board of agriculture shall have the power to:

(b) Appoint a president of Fort Lewis college who shall hold his office until removed by the board, or until he shall resign the same;

(c) Appoint such other executive officers of the college as may be required;

(d) Appoint such faculty and employees as the necessities of the college demand; and

(e) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff.

124-14-5. Tuition fees — Indians. (1) The state board of agriculture shall fix tuition, in accordance with the level of appropriations set by the general assembly for the college, subject to the restriction that all qualified Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado, who qualify for in-state tuition under article 18 of this chapter, and who are not otherwise able to pay tuition, shall at all times be admitted to such school free of charge for tuition and on terms of equality with other pupils.

(2) Special programs may also be offered to assist Indian pupils to prepare for, begin, or continue their college education at Fort Lewis college. Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado, who qualify for in-state tuition under article 18 of this chapter, and who are not otherwise able to pay tuition, shall not be charged tuition for such programs. The size of any special programs offered pursuant to this subsection (2) shall be limited by the facilities and revenues available and by the level of appropriations set therefor by the general assembly. Indian pupils whose domicile lies within the geographic boundaries of the state of Colorado shall have preference over all other pupils for admission to such programs.

124-14-6. Donations — power to invest. All donations of money, securities, or other property of whatever kind and wherever situated made to Fort Lewis college shall be held by the state board of agriculture for the use and benefit of Fort Lewis college, to be expended subject to appropriation by the general assembly or invested in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Section 2. Article 11 of chapter 124, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

124-11-15. Hesperus account created. The proceeds of or income from the property formerly known as the "Fort Lewis school", granted by the United States to the state of Colorado, pursuant to an act of congress approved April 4, 1910 (36 Stat. 274) as modified by an act of congress approved May 18, 1916 (39 Stat. 128), shall constitute a special account, which shall be known as the "Hesperus account". The income from said property and from the Hesperus account shall be applied to such public purpose as may be determined by the state board

of agriculture, subject to appropriation by the general assembly, except that it shall first be used by the state board of agriculture for tuition waivers at Fort Lewis college, in addition to any other funds appropriated therefor, for qualified Indian pupils who are not otherwise able to pay tuition.

124-11-16. Development of natural resources. The state board of land commissioners is hereby authorized and directed prudently to develop such coal measures, mineral deposits, and oil structures by lease or otherwise as may be situate on lands described in section 124-11-15, but such development shall not unreasonably interfere with the use of such land as may be directed from time to time by the state board of agriculture. Applications for leases of the coal measures, mineral deposits, and oil structures shall be made to the state board of land commissioners, which board may execute such leases in the manner required by law. Rental, royalties, and income therefrom shall be deposited with the state treasurer and credited to the special account established by section 124-11-15.

124-11-17. Power to invest. The state board of agriculture shall have the power to direct the investment of funds held by the state treasurer pursuant to section 124-11-15 in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Section 3. **Repeal.** 124-18-5, Colorado Revised Statutes 1963, is repealed.

Section 4. **Severability.** If any provision of this act or the application thereof to any person, thing, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 5. **Effective date.** This act shall take effect July 1, 1971.

Section 6. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1971

FORT LEWIS COLLEGE
DURANGO, COLORADO

TUITION GRANT SUB-COMMITTEE
OF THE
FORT LEWIS COLLEGE FINANCIAL AIDS COMMITTEE

RESPONSIBILITIES

The Tuition Grant Sub-Committee of the Fort Lewis College Financial Aids Committee was organized in May, 1971, to award tuition grants to qualified American Indian students in accordance with the monies appropriated and budgeted for this purpose. It is the charge of the Sub-Committee to formally award or deny tuition grants in keeping with House Bill #1452, passed in 1971, in accordance with the guidelines established by the Colorado Commission on Higher Education in 1971 for student financial aid.

It is the expressed obligation of Fort Lewis College to fulfill the following responsibilities to American Indian students:

1. To award tuition grants to Colorado resident students according to HB #1452, 124-14-5: "...all qualified Indian pupils whose domicile lies within the geographical boundaries of the State of Colorado, who qualify for in-state tuition under Article 18 of this Chapter, and who are not otherwise able to pay tuition, shall at all times be admitted to (Fort Lewis College) free of charge for tuition and on terms of equality with other pupils"

2. To award tuition grants within budget allowance to out-of-state American Indian students who are continuing their education at this institution, and who qualify for such award by determination of financial need and satisfactory academic standing

3. To award tuition grants within budget allowance to new out-of-state American Indian students, classified as first-time, former, transfer, and unclassified students, who qualify for such award by determination of financial need and promise of normal academic progress

To this end, the Tuition Grant Sub-Committee shall carry out its charge.

POLICIES AND PROCEDURES

The following policies and procedures shall regulate the action of the Sub-Committee:

1. All American Indian students who desire a tuition grant shall make application for said grant and demonstrate financial need for the grant.*

2. All American Indian students making application for a tuition grant shall first be determined eligible for such an award by:

   a. Official admission to or enrollment in Fort Lewis College and certification of American Indian status through the Office of Admissions and Records

   b. Confirmation of financial need through the Office of Financial Aids

3. All applicants shall be considered for tuition grants according to the following criteria of eligibility:

   a. Continuing students shall be in good academic standing as certified by the Academic Standards Committee

   b. New students shall be officially admitted by the Office of Admissions and Records

   c. All students shall be declared in need of financial assistance by the Office of Financial Aids. Selection will be based upon greatest financial need.

   d. All students shall show promise of their ability to maintain normal academic progress. Selection will be determined by greatest academic promise and based upon previous academic records and test scores.

   e. All students shall maintain high personal standards. Selection will be made on basis of personal evaluation records and recommendations.

4. The following priorities shall govern the order of selection of tuition grantees. In all cases the Colorado resident student shall have first priority by reason of Colorado HB #1452:

   a. Continuing students

   b. New students

      1) Former students in good standing
      2) First-time students and transfer students
      3) Unclassified students
      4) Re-applying suspended students

5. Tuition grants will be awarded normally for the fall and winter trimesters of the academic year; awards will be made for one trimester for students completing their academic programs at the end of one term. Consideration will be given to students wishing to enroll in the regular summer session.

6. Tuition grants ordinarily will not be awarded to post-baccalaureate students.

7. Applicants and grantees are subject to interviews before the Sub-Committee if the Sub-Committee deems such action necessary.

8. Appeals before the Sub-Committee may be arranged by students who have been denied tuition grants, providing the students believe they have justifiable reasons for hearings. In such cases, thestudents must show cause why they should be awarded tuition grants. Appeal arrangements must be approved in advance with the Chairman.

9. The Sub-Committee shall be subject to guidelines and directions as developed by the general administrators who are responsible for financial aids.

The Tuition Grant Sub-Committee subscribes to the concept that tuition grant awards are "earned opportunities" to pursue a college education, not "free-ride opportunities." All grantees, therefore, will be carefully and continually evaluated on the basis of whether or not they are productive students and citizens of the college community.

ADOPTED: (date)

Members of the Sub-Committee:

Buford Wayt, Chairman
Harold Lewis
Don Snyder
Don Whalen
Kathryn Arviso

* Exception to this policy was made for the 1971-1972 continuing students who were academically eligible to enroll, had proven financial need, and had pre-registered for the fall term on the basis of receiving a tuition grant. In this case, they were awarded a grant contingent upon the completion of an acceptance form.